

## § 24.14

require specific acceptance of that seal by Customs.

(f) *Testing.* All testing of seals deemed necessary before Customs acceptance will be done by the manufacturer or by a private laboratory, and not by Customs. However, Customs reserves the right to test, or to have tested, seals that have been accepted by Customs.

(g) *Records.* The manufacturer's attestation that a seal meets or exceeds the standards specified in this section and, if deemed necessary by Customs, the seal test record shall be sent to the Assistant Commissioner, Field Operations, Headquarters, U.S. Customs Service, Washington DC 20229.

[T.D. 81-185, 46 FR 36842, July 16, 1981, as amended by T.D. 91-77, 56 FR 46114, Sept. 10, 1991]

## § 24.14 Salable Customs forms.

(a) Customs forms for sale to the general public shall be designated by the Commissioner of Customs, or his delegate. Customs forms which are designated as salable shall meet the following conditions: (1) The form is distributed to private parties for use in completing customs transactions; (2) the quantity used nationwide annually is sufficient to justify the administrative costs involved in selling the form and accounting for the collections involved therein, or the form is primarily for the use of a special group; (3) distribution is or can generally be made in lots of 100 or more; (4) the form is normally distributed to commercial concerns (customhouse brokers, freight forwarders, vessel agents, carriers, regular commercial importers, etc.) rather than to or for the use of individuals or others (tourists, churches, schools, occasional importers, etc.) for non-commercial purposes.

(b) The price of each salable Customs form shall be established by the Commissioner of Customs, or his delegate, and shall be adjusted periodically as the varying costs of printing and distribution require. A list of salable customs forms showing the price at which each is sold shall be prominently posted in each customhouse in a location accessible to the general public.

(c) Customs forms for sale to the general public, except unusually large or

## 19 CFR Ch. I (4-1-06 Edition)

otherwise unsuitable forms, shall normally be prepared in units containing 100 copies. If a completely prepared bill or receipt is presented by the purchaser at the time of the purchase, the port director's paid stamp shall be impressed thereon; otherwise, no receipt shall be given.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 75-132, 40 FR 24519, June 9, 1975]

## § 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.

(a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), or section 451, Tariff Act of 1930, as amended (19 U.S.C. 1451), shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451, or section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Reimbursements of overtime compensation shall be collected by the port director from the applicants for the services. Customs Officers entitled to overtime compensation and premium pay, pursuant to the provisions of the Customs Officer Pay Reform legislation (19 U.S.C. 261 and 267, as amended), shall not receive pay or other compensation for that work under any other provision of law. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a timely application therefor during regular hours of business when the need for the services can reasonably be foreseen, nor in any case until the maximum probable reimbursement is adequately secured.

(b) *Definitions.* For purposes of this section, the following words and phrases have the meanings indicated:

(1) *The Act* refers to Part II, Subchapter D of the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66.

(2) *Administrative workweek* means a period of seven consecutive calendar

days beginning Sunday and continuing through the following Saturday.

(3) *Base pay* means the rate of pay fixed by law or administrative action for the position held by the Customs Officer.

(4) *Callback* means the irregular or occasional overtime work performed by a Customs Officer either on a day when work was not regularly scheduled for that officer or which begins at least one hour after the end of the officer's regularly-scheduled tour of duty and ends at least one hour before the beginning of the following regularly-scheduled assignment and requires the officer to return to a place of work.

(5) "Commuter compensation" means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for returning to work, under certain conditions, to perform an overtime work assignment. Commuter compensation, within the limits prescribed by the Act, shall be treated as overtime compensation, and is includable for Federal retirement benefit purposes.

(6) *Continuous assignment* means the grouping of multiple overtime assignments, performed by the same Customs Officer(s), which are separated by periods of non-work, into a single unit for computation of pay purposes.

(7) *Customs Officer* means only those individuals assigned to position descriptions entitled "Customs Inspector," "Supervisory Customs Inspector," "Canine Enforcement Officer," "Supervisory Canine Enforcement Officer," "Customs and Border Protection Officer," "Supervisory Customs and Border Protection Officer," "Customs and Border Protection Agriculture Specialist," or "Supervisory Customs and Border Protection Agriculture Specialist."

(8) *Fiscal year pay cap* refers to the statutory maximum, in effect for the year involved, in overtime and premium pay a Customs Officer shall receive in that fiscal year. This aggregate limit may be waived by the Commissioner of Customs or his/her designee in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

(9) *Holiday* means any day designated as a holiday by a Federal statute or declared by an Executive order.

(10) *Intermittent employee* is a non-full-time employee who does not have a regularly-scheduled tour of duty.

(11) *Majority of hours*, within the context of night work differentials, means more than half of the hours of the daily regularly-scheduled tour of duty.

(12) *Night work* means regularly-scheduled work performed by a Customs Officer on tours of duty, in which a majority of the hours worked occur between the hours of 3:00 p.m. and 8:00 a.m.

(13) *Overtime pay* means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work in excess of the 40 hours of the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day, which may include commuter compensation as defined at paragraph (b)(5) of this section. Overtime pay, within the limits prescribed by the Act, is includable for Federal retirement benefit purposes.

(14) *Premium pay differential* means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work on holidays, Sundays and at night. Premium pay is not includable for Federal retirement benefit purposes.

(15) *Regularly-scheduled administrative workweek* means, for a full-time employee, the 40 hour period within an administrative workweek within which the employee is regularly scheduled to work, exclusive of any overtime; for a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

(c) *Application and bond.* (1) Except as provided for in paragraphs (c)(2) and (4) of this section, an application for inspectional services of Customs Officers at night or on a Sunday or holiday, Customs Form 3171, supported by the required cash deposit or bond, shall

§ 24.16

19 CFR Ch. I (4-1-06 Edition)

be filed in the office of the port director before the assignment of such officers for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the port director or authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the Customs Officers, or the maximum amount which may be charged by law, whichever is less, in connection with the particular services requested. The bond to secure reimbursement shall be on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§113.62, 113.63, 113.64 and 113.73), and in an amount to be fixed by the port director, unless another bond containing a provision to secure reimbursement is on file. A bond given on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§113.62, 113.63, 113.64 and 113.73), to secure the payment of overtime services rendered private aircraft and private vessels shall be taken without surety or cash deposit in lieu of surety, and the bond shall be modified to so indicate.

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the port director may designate a Customs Officer to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. In each such case the assignment to perform services shall be conditional upon the receipt of the appropriate application and security. Where the security is a cash deposit, the receipt may be properly inscribed to make it serve as a combined receipt for cash deposit in lieu of bond and request for overtime services, in lieu of filing a request for overtime services on Customs Form 3171.

REQUEST FOR OVERTIME SERVICES

Permit Number \_\_\_\_\_

I hereby request overtime services on \_\_\_\_\_, 19\_\_\_\_; at \_\_\_\_ a.m., p.m., in connection with the entry of my aircraft (vessel).

(Pilot, Owner, or Person in Charge)

(3) An application on Customs Form 3171 for overtime services of Customs Officers, when supported by the required cash deposit or a continuous bond, may be granted for a period not longer than for 1 year. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper Customs Officer will be notified timely during official hours in advance of the services requested as to the exact times that the services will be needed.

(4) Inspectional services will be provided to owners or operators of aircraft without charge for overtime on Sundays and holidays between the hours of 8:00 a.m. and 5:00 p.m. Applications for inspectional services for aircraft during those hours shall be filed as set forth in paragraph (c)(1) of this section, but without cash deposit or bond.

(d) *Work Assignment Priorities.* The establishment of regularly-scheduled administrative tours of duty and assignments of Customs Officers to overtime work under this section shall be made in accordance with the following priorities, listed below in priority order:

(1) *Alignment.* Tours of duty should be aligned with the Customs workload.

(2) *Least Cost.* All work assignments should be made in a manner which minimizes the cost to the government or party in interest. Decisions, including, but not limited to, what hours should be covered by a tour of duty or whether an assignment should be treated as a continuous assignment or subject to commute compensation, should be based on least cost considerations. However, base pay comparison of eligible employees shall not be used in the determination of staffing assignments.

(3) *Annuity integrity.* For Customs Officers within 3 years of their statutory retirement eligibility, the amount of overtime that can be worked is limited to the average yearly number of overtime hours the Customs Officer worked during his/her career with the Customs Service. If the dollar value of the average yearly number of overtime hours worked by such Customs Officer exceeds 50 percent of the applicable statutory pay cap, then no overtime earning limitation based on this annuity

integrity provision would apply. Waivers concerning this annuity integrity limitation may be granted by the Commissioner of Customs or the Commissioner's designee in individual cases in order to prevent excessive costs or to meet emergency requirements of Customs.

(e) *Overtime Pay.* (1) A Customs Officer who is officially assigned to perform work in excess of the 40 hours in the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day shall be compensated for such overtime work performed at 2 times the hourly rate of the officer's base pay, including any locality pay, but not including any premium pay differentials for holiday, Sunday, or night work.

(2) The computation of the amount of overtime worked by a Customs Officer is subject to the following conditions:

(i) *Overtime that is less than one hour.* A quarter of an hour shall be the smallest fraction of an hour used for paying overtime under this subpart.

(ii) *Absence during overtime.* Except as expressly authorized by statute, regulation, or court order (i.e., military leave, court leave, continuation of pay under the workers compensation law, and back pay awards), a Customs Officer shall be paid for overtime work only when the officer reports as assigned.

(f) *Special provisions relating to overtime work on a callback basis—(1) Minimum duration and callback requirements.* Any work for which overtime pay is authorized and for which the Customs Officer is required to return to a place of work shall be treated as being at least 2 hours in duration, but only if such work begins at least 1 hour after the end of any previous regularly-scheduled work assignment and ends at least 1 hour before the beginning of the following regularly-scheduled work assignment. An unpaid meal period shall not be considered a break in service for purposes of callback.

(2) *Commute compensation—Eligibility.* A Customs Officer shall be compensated for overtime when the officer is called back and officially assigned to perform work that:

(i) Is in excess of the 40 hours in the officer's regularly-scheduled adminis-

trative workweek or in excess of 8 hours in a day;

(ii) Begins at least 1 hour after the end of any previous regularly-scheduled work assignment;

(iii) Commences more than 2 hours prior to the start of the officer's next regularly-scheduled work assignment;

(iv) Ends at least 1 hour before the beginning of the officer's next regularly-scheduled work assignment; and,

(v) Commences less than 16 hours after the officer's last regularly-scheduled work assignment. The 16 hours shall be calculated from the end of the Customs Officer's last regularly-scheduled work assignment.

(3) *Commute compensation—Amount.* Commute compensation under this section shall be in an amount equal to 3 times the hourly rate of the Customs Officer's base pay for a one hour period, which includes applicable locality pay, but does not include any premium pay differentials for holiday, Sunday or night work. The Customs Officer shall be entitled to this amount for an eligible commute regardless of the actual commute time. However, an unpaid meal period shall not be considered a break in service for purposes of commute compensation.

(4) *Maximum Compensation for Multiple Assignments.* If a Customs Officer is assigned to perform more than one overtime assignment, in which the officer is required to return to a place of work more than once in order to complete the assignment, and otherwise satisfies the callback requirements of paragraph (f)(1) of this section, then the officer shall be entitled to commute compensation each time the officer returns to the place of work provided that each assignment commences less than 16 hours after the officer's last regularly-scheduled work assignment. However, in no case shall the compensation be greater than if some or all of the assignments were treated as one continuous callback assignment.

(g) *Premium pay differentials.* Premium pay differentials may only be paid for non-overtime work performed on holidays, Sundays, or, at night (work performed, in whole or in part, between the hours of 3:00 p.m. and 8:00 a.m.). A Customs Officer shall receive

payment for only one of the differentials for any one given period of work. The order of precedence for the payment of premium pay differentials is holiday, Sunday, and night work.

(1) *Holiday differential.* A Customs Officer who performs any regularly-scheduled work on a holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 100 percent of that base rate. Holiday differential premium pay will be paid only for time worked. Intermittent employees are not entitled to holiday differentials.

(i) When a holiday is designated by a calendar date, for example, January 1, July 4, November 11, or December 25, the holiday will be observed on that date regardless of Saturdays and Sundays. Customs Officers who perform regularly-scheduled, non-overtime, tours of duty on those days shall be paid the holiday differential. Holidays not designated by a specific calendar date, such as President's Day (the third Monday in February), shall be observed on that date, and Customs Officers who perform regularly-scheduled, non-overtime, work on those days shall be paid the holiday differential.

(ii) Inauguration Day (January 20 of each fourth year after 1965), is a legal public holiday for the purpose of the Act. Customs Officers whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia, who perform regularly-scheduled, non-overtime, work on that day shall be paid the holiday differential. When Inauguration Day falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is the legal public holiday.

(iii) If a legal holiday falls on a Customs Officer's regularly-scheduled day off, the officer shall receive a holiday "in lieu of" that day. Holidays "in lieu of" shall not be granted for Inauguration Day. A Customs Officer who works on an "in lieu of" holiday shall be paid the holiday differential.

(iv) If a Customs Officer is assigned to a regularly-scheduled, non-overtime,

tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on a Monday holiday following a scheduled day off on Sunday and ending at 4 a.m. on Tuesday—the Customs Officer shall receive the holiday differential (up to 8 hours) for work performed during that shift. If the Customs Officer is assigned more than one regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on the Wednesday before a Thursday holiday and ending at 4 a.m. on Thursday with another regularly-scheduled, non-overtime, tour of duty starting at 8 p.m. on the Thursday holiday and ending at 4 a.m. on Friday—the management official in charge of assigning work shall designate one of the tours of duty as the officer's holiday shift and the officer shall receive holiday differential (up to 8 hours) for work performed during the entire period of the designated holiday shift. The Customs Officer shall not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate.

(v) Customs Officers who are regularly scheduled, but not required, to work on a holiday shall receive their hourly rate of base pay for that 8-hour tour plus any Sunday or night differential they would have received had the day not been designated as a holiday. To receive holiday pay under this paragraph, the Customs Officer must be in a pay status (at work or on paid leave), either the last work day before the holiday or the first work day following the holiday.

(vi) A Customs Officer who works only a portion of a regularly-scheduled, non-overtime, holiday shift will be paid the holiday differential for the actual hours worked and the appropriate differential (Sunday or night) for the remaining portion of the shift such officer was not required to work. The night differential premium pay shall be calculated based on the rate applicable to the entire shift.

(2) *Sunday differential.* A Customs Officer who performs any regularly-scheduled work on a Sunday that is not a Federal holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 50 percent of that base rate. Sunday differential premium pay will be paid only for time worked and is not applicable to overtime work performed on a Sunday. A Customs Officer whose regularly-scheduled work occurs in part on a Sunday, that is not a Federal holiday, and in part on the preceding or following day, will receive the Sunday differential premium pay for the hours worked between 12:01 a.m. and 12 Midnight on Sunday. Intermittent employees are not entitled to Sunday differentials.

(3) *Night work differentials.* A Customs Officer who performs any regularly-scheduled night work shall receive pay for that work at the officer's hourly rate of base pay, including locality pay as authorized, plus the applicable premium pay differential, as specified below, but shall not receive such night differential for work performed during overtime assignments. When all or the majority of the hours of a Customs Officer's regularly-scheduled work occur between 3 p.m. and 8 a.m., the officer shall receive a night differential premium for all the hours worked during that assignment. Intermittent employees are not entitled to night differentials.

(i) *3 p.m. to Midnight.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 3 p.m. and 12 Midnight, the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for all the hours worked.

(ii) *11 p.m. to 8 a.m.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 11 p.m. and 8 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 20 percent of that hourly rate of base pay for all the hours worked.

(iii) *7:30 p.m. to 3:30 a.m. Shift.* If the regularly-scheduled shift of a Customs

Officer is 7:30 p.m. to 3:30 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for the work performed between 7:30 p.m. and 11:30 p.m. and 20 percent of that hourly rate of base pay for the work performed between 11:30 p.m. and 3:30 a.m.

(iv) *Work Scheduled During Two Differential Periods.* A Customs Officer shall only be paid one night differential rate per regularly-scheduled shift, except as provided for in paragraph (iii) above. A Customs Officer whose regularly-scheduled work occurs during two separate differential periods shall receive the night differential premium rate which applies to the majority of hours scheduled.

(v) *Night Work Which Occurs in Part on a Sunday.* When a Customs Officer's regularly-scheduled shift occurs in part on a Sunday, the officer shall receive Sunday differential pay for those hours of the work which are performed during the 24 hour period of the Sunday, and the night differential pay for those hours which do not fall on the Sunday. For example, a Customs Officer who is assigned and works a shift which starts at 8 p.m. Sunday and ends at 4 a.m. Monday, shall receive 4 hours of Sunday premium pay and 4 hours of night pay. The night differential pay shall be calculated based on the rate applicable to the particular tour of duty.

(h) *Limitations.* Total payments for overtime/commute, and differentials for holiday, Sunday, and night work that a Customs Officer is paid shall not exceed any applicable fiscal year pay cap established by Congress. The Commissioner of Customs or the Commissioner's designee may waive this limitation in individual cases to prevent excessive costs or to meet emergency requirements of the Customs Service. However, compensation awarded to a Customs Officer for work not performed, which includes overtime awards during military leave or court leave, continuation of pay under workers compensation law, and awards made in accordance with back pay settlements, shall not be applied to any applicable pay cap calculations.

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## § 24.17

## 19 CFR Ch. I (4-1-06 Edition)

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 24.16, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 24.17 Reimbursable services of Customs employees.

(a) Amounts of compensation and expenses chargeable to parties-in-interest in connection with services rendered by Customs employees during regular hours of duty or on Customs overtime assignments (19 U.S.C. 267, 1451), under one or more of the following circumstances shall be collected from such parties-in-interest and deposited by port directors as repayments to the appropriation from which paid.

(1) When a Customs employee is assigned on board a vessel or vehicle under authority of section 457, Tariff Act of 1930, to protect the revenue, the owner or master of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(2) When a Customs employee is assigned on board a vessel under authority of section 458, Tariff Act of 1930, to supervise the unloading of such vessel, the master or owner of such vessel shall be charged the full compensation of such employee for every day consumed in unloading after the expiration of 25 days after the date of the vessel's entry.

(3) When a Customs employee is assigned under authority of section 304, Tariff Act of 1930, as amended, to supervise the exportation, destruction, or marking to exempt articles from the duty provided for in such section, the importer of such merchandise shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(4) When a Customs employee is assigned pursuant to § 101.4 of this chapter to a Customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel shall be charged the full compensation and authorized travel and subsistence expenses of such em-

ployee from the time he leaves his official station until he returns. When a Customs employee is so assigned to render service in connection with the entry or delivery of merchandise only, the private interest shall be charged only for the authorized travel and subsistence expenses incurred by such employee from the time he leaves his official station until he returns thereto except that no collection need be made if the total amount chargeable against one importer for one day amounts to less than 50 cents (see § 101.4(b) of this chapter). Where the amount chargeable is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made.

(5) When a Customs employee is assigned under authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or to supervise the unloading of cargo, the private interest shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(6) [Reserved]

(7) When a Customs employee is assigned on any vessel or vehicle, under authority of section 456, Tariff Act of 1930, while proceeding from one port to another, the master or owner of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto, or, in lieu of such expenses, the master or owner may furnish such employee the accommodations usually supplied to passengers.

(8) When a Customs employee is assigned under authority of section 562, Tariff Act of 1930, as amended, to supervise the manipulation of merchandise at a place other than a bonded warehouse, the compensation and expenses of such employee shall be reimbursed to the Government by the party in interest. A Customs officer so assigned is not acting as a customs warehouse officer, since the services have no connection with a customs bonded warehouse.

(9) When a Customs employee is assigned to supervise the destruction of merchandise pursuant to section 557(c),